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NOTIFICATION

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Dated, Trivandrum, 2nd January, 1963.

Notifications Nos. GSR 1715 & 1716 dated 13-12-1962 of the Government of India, Ministry of Home Affairs, published as the Gazette of India Extraordinary Part II—Section 3—Sub-section (i) dated 13-12-1962 are hereby republished for general information.

By order of the Governor,
C. K. KERALA VARMA,
Secretary.

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GAZETTE OF INDIA EXTRAORDINARY

PART II—SECTION 3—SUB-SECTION (i)

No. 137 New Delhi, Thursday, December 13, 1962|Agrahayana 22, 1884.

MINISTRY OF HOME AFFAIRS

NOTIFICATIONS

New Delhi, the 13th December 1962.

THE DEFENCE OF INDIA (REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY) RULES, 1962

G.S.R. 1715: In exercise of the powers conferred by section 38 of the Defence of India Act, 1962 (51 of 1962), the Central Government hereby makes the following rules, namely:—

1. *Short title.*—These rules may be called the Defence of India (Requisitioning and Acquisition of Immovable Property) Rules, 1962.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(a) "Act" means the Defence of India Act, 1962;
(b) "Competent authority" means—
(i) the Central Government, or
(ii) a State Government to which, or any officer or authority subordinate to the Central Government or a State Government to whom, the powers conferred or duties imposed on the Central Government under the relevant provision of Chapter VI of the Act have been delegated under section 40 of the Act, or
(iii) any officer or authority authorised by the Central Government or a State Government to exercise the powers or perform the duties of the competent authority under any provision of these rules;

(c) "Court" means the principal civil court of original jurisdiction in the district in which the property is situated;

(d) "person interested" shall have the same meaning as in the Explanation to section 30 of the Act.

3. *Power to require delivery of possession of property.*—Whenever any property is requisitioned, the competent authority may by order require the owner or person in possession of the property to deliver possession thereof, after removing therefrom any furniture or other articles, to such person and within such time as may be specified in the order.

4. *Procedure for taking possession.*—Where any person either remains in possession of any requisitioned property or fails to remove therefrom any furniture or other articles belonging to him in contravention of any order of requisitioning, the competent authority may, subject to the provisions of rule 18, enter into or take possession of the property and while taking possession of the property, the competent authority shall make, in the presence of two witnesses, an inventory of the furniture and other articles found therein and after giving not less than three days' notice for removing such furniture or other articles and after proclamation in such manner as that authority considers sufficient, may dispose of such furniture and other articles by public auction. The sale proceeds, if any, shall, after deducting the expenses of the sale, be deposited in the Court for payment to such person or persons as are entitled to receive the same.

5. *Use of requisitioned property.*—A property requisitioned for any of the purposes specified in sub-section (1) of section 29 of the Act may be used for any one or more of the other purposes specified in that sub-section.

6. *Repairs to requisitioned property.*—(1) The competent authority may, by order in writing, require any person interested to execute such repairs to the property (being repairs which are necessary and are usually made by owners of properties in the locality in which the requisitioned property is situated) and within such time as may be specified in the order, and if the person interested fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed and the expenses of such repairs shall be deducted from the compensation payable to him so however that the amount to be deducted shall in no case exceed the compensation payable for a month determined in accordance with clause (i) of section 30 of the Act.

(2) If the competent authority does not consider it in the public interest to allow entry into the property by the person interested or his agents or workmen for carrying out the requisite repairs, such repairs may be carried out by the competent authority and the expenses thereof shall be deducted from the compensation payable in respect of the property in accordance with sub-rule (1).

7. *Release from requisition.*—(1) Where any person to whom the possession of any property to be released from requisition, is to be given, fails to accept delivery of the property, or cannot be found and has no legal agent or other person empowered to accept delivery on his behalf the competent authority shall cause a notice declaring that the property is released from requisition, to be served by registered post, at the last known address of such person and a copy of such notice shall at the same time be fixed on some conspicuous

part of the property and a purport of the notice shall also be proclaimed by beat of drum or otherwise as the competent authority may consider sufficient. Such property shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(2) Where any requisitioned property or any material part therof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistihle force, the property or any such part thereof, shall, at the option of the competent authority, be deemed to have beeen released from requisition and the Central Government shall not be liable to restore the same in as good a condition as it was at the time of requisition.

8. *Compensation.*—The competent authority shall, as soon as may be after the property has been requisitioned, released from requisition or acquired, as the case may be, determine the compensation payable under section 30 or section 37 of the Act and shall also apportion it where necessary among the persons known or believed to be interested in the property of whom or of whose claim to compensation he has information. Such determination shall be communicated by the competent authority to the person or persons in whose favour the determination has been made.

9. *Application for arbitration.*—(1) A person aggrieved by the amount of compensation determined by the competent authority shall, within thirty days of the receipt of the communication of such determination, make an application in writing to the competent authority for referring the matter to an arbitrator stating therein the reasons for his being aggrieved by he amount of compensation so determined.

(2) Where no such application is made within the period of thirty days aforesaid and the amount of compensation as determined by the competent authority has not been accepted by the person or persons in whose favour the determination has been made, or where there is dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation the competent authority may deposit the amount with the court.

10. *Appointment of arbitrator.*—(1) On receipt of the application for reference to arbitration or where there is a dispute as to the title to receive the compensation or as to the apportionment of the amount thereof, the competent authority shall appoint as arbitrator a person who is qualified under

clause (2) of article 217 of the Constitution for appointment as a Judge of a High Court.

(2) Any such arbitrator shall complete the arbitration proceedings and give his award within four months:

Provided that the Central Government may, if it thinks fit, enlarge the period for making the award whether the time for making the award has expired or not.

11. *Change of arbitrator.*—Where before an arbitrator is able to finish his arbitration proceedings and make his award, a new arbitrator is appointed, the new arbitrator may deal with the evidence taken down by his predecessor as if such evidence had been taken down by him and may proceed with the arbitration proceedings from the stage at which his predecessor left it.

12. *Arbitrator to have certain powers of civil courts.*—The arbitrator shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.

13. *The Award.*—After taking into consideration matters with regard to the reference and after making such enquiry as the arbitrator may consider necessary and just, the arbitrator shall make in writing and sign the award, setting forth the grounds for his decision of the amount of compensation which in his poinion should be allowed for the property and of the apportionment of the said compensation among all persons known to be interested in the property. The arbitrator shall at the same time deliver or send by registered post to all parties to the reference and to the competent authority a copy each of the award together with the grounds on which the award is based.

14. *Costs.*—(1) The award shall also state the amount of costs incurred by each party in the proceedings.

(2) Where the compensation determined by the arbitrator does not exceed the sum offered by the competent authority, the person interested shall be directed to bear his own costs and to pay as well the costs of the competent authority.

(3) Where the compensation determined by the arbitrator is not less than the amount claimed by the person interested and it is proved that the person interested made a similar

claim in the inquiry preceding the competent authority's determination, the competent authority shall be directed to bear his own costs as well as those of the person interested.

(4) Subject as aforesaid, the apportionment of costs shall be in the discretion of the arbitrator.

(5) Where the costs of the competent authority have been ordered to be paid by the person interested, the competent authority may deduct the amount of such costs from the compensation amount payable to such person.

15. *Payment.*—(1) The compensation determined in accordance with clause (i) of section 30 of the Act shall be payable on the expiry of every three months in respect of a building or an urban land and on the expiry of every six months in respect of rural land.

(2) Where in the opinion of the competent authority there is likely to be delay in determination of the compensation or where the person interested is aggrieved by the amount of compensation determined by the competent authority, the competent authority may, at his discretion, make "on account" payment, after taking such security as that authority thinks fit, up to eighty per cent of the amount which in his opinion is likely to be determined as compensation and such "on account" payment as relates to compensation referred to in sub-rule (1) shall, as far as may be, be made in accordance with the provisions of that sub-rule.

16. *Service of notices and orders.*—(1) Save as otherwise provided in Chapter VI of the Act or in these rules, every notice or order issued or made under that Chapter or these rules shall,—

(a) In the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and

(b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (5 of 1908);

(c) in the case of any notice or order affecting an individual person (not being a corporation or a firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by registered post.

(2) When the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

17. *Court deposits.*—If any money is deposited in court under these rules, the court shall deal with it in the manner laid down in section 32 and 33 of the Land Acquisition Act, 1894 (1 of 1894).

18. *Inspection of property.*—The competent authority shall not, as far as possible, in exercise of the powers conferred by sections 32 and 33 of the Act, enter upon any property after sunset or before sunrise.

(No. 3|2|62|Poll. (Spl.)—1)

G.S.R. 1716.—In exercise of the powers conferred by sub-section (1) of section 40 of the Defence of India Act, 1962 (51 of 1962) and of all other powers enabling it in this behalf, the Central Government hereby directs that the powers exercisable by it under the provisions of the said Act specified in column (2) of the Schedule hereto annexed shall also be exercisable by each of the authorities mentioned in the corresponding entry in column (3) of the said Schedule in respect of any immovable property situated within its jurisdiction.

SCHEDULE

Sl. No.	*Provision of the Act*	*Authorities*
1	2	3
1	Sections 29, 30 (except the provisos thereto), 31, 32, 33, 35 and 36 and sub-sections (1) and (3) of section 37.	(a) All Collectors, District Magistrates and Deputy Commissioners in the States and all political officers in NEFA.
		(b) All Land Acquisition Collector, Land Acquisition Officers and Sub divisional Magistrates functioning as Land Acquisition Collectors in the States and all Assistant Political Officers functioning as Land Acquisition Collectors in NEFA.
2	Provisos to section 30 and Sub-sections (2) and (4) of section 37.	The State Governments.

(No. 3|2|62—Poll. (Spl)—II)

HARI SHARMA, ADDL. SECRY.